

Legislative Public Lands Committee Aug. 27, 2004
Comments / Testimony during Public Comment
period

Introduction:

I am Floyd Rathbun
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I testified to this committee March 26, 2004
in Reno. My written testimony is available.

In March my primary issue was the
economic damage ~~being~~ caused by the
Endangered Species Act to Lyon County
ranch F.I.M. Corporation. F.I.M.
is a ~~the~~ family owned sheep ranch that
supports 3 generations of a single family:
Fred Falslow, his daughter and son-in-law
Marianne and Scott Leihassar, and their
children Chris and Danielle. See the
recent Range Magazine story.

Their ranch produces and sells over one
million pounds of lamb and 100,000 pounds
of wool each year. That productivity
supports twenty jobs on the ranch, retail
sales, tax revenues, jobs and economic activity
throughout 3 Nevada counties and two
adjacent California counties

Trails to accommodate 4 Endangered animals
and several plants. Sierra Nevada Bighorn
Sheep, Lahontan Cutthroat trout, frogs,
toads, etc. -

LET is used to control stream side
grazing and often prohibits riparian
grazing entirely.

SNBS is being used to eliminate permits
for sheep grazing from entire allotments.
Most recently, this summer, the
Dundoberg Allotment permit was changed
from active grazing to "rest" status.
The Forest Service has made other
grazing areas available. None of
the other areas offer as nutritious
and abundant forage as the Dundoberg
but the effort is appreciated.

The first Allotment that was offered
is Silver Creek. This area includes the
Marine winter training "base". It
also is controlled for Lahontan Cutthroat
trout so FWS sheep would have
been prohibited from grazing the
meadows and from drinking from the creek.

Since our presentation in March, FJN met with Forest Supervisor in Sparks. Fred and Marianne arranged for scientists from Nevada Dept of Agriculture and UNR to present ~~that~~ as fact, that the accusation of disease transmission from domestic sheep to bighorns does not occur the way that the biologists' claim. My part included a request that the FS tell the USFWS about this sound scientific data, ~~with~~ and refuse to act on the unfounded allegation of domestic sheep causing ~~catastrophic~~ ^{catastrophic} death from pneumonia in bighorn populations.

FS. refused to accept the data and conclusions of the veterinarians because it conflicted with their established position. Later, the FS did agree to participate in a conference to discuss the issue this fall.

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This refusal to incorporate the best available scientific data seems to be occurring in many ESA situations.

We've all been faced with LCT regulation, especially the prohibition or unnecessary restrictions of grazing. Nevada had the only data relating to Bull Trout in Jarvis, and that data was simply ignored.

From my viewpoint, the basic problem, (aside from the need to revise the ESA) is the lack of accountability of the government employees who draw up and enforce ESA regulations. For the most part the biologists stick together. ESA regulation has provided opportunities for writing "biological opinions" that have the effect of law. Mostly the biological opinions become a bureaucratic justification for maintaining and increasing government staffs and budgets. There are no examples of the regulations benefiting the protected species.

F.I.117. Gop problem with the ESA is a fairly consist example of widespread problems. They are experiencing the effects of federal and state agencies failing to use the best available scientific data, failing to evaluate and mitigate detrimental/economic effects within local communities, failure to use proven technical management actions to improve habitats, etc. All these failures, ~~are~~ often reflect the regulation by the US Fish and Wildlife Service. However, BLM, FS, NDOI, and other agencies usually endorse the USFWS orders rather than ~~oppose~~ stand firmly for the best scientific and economic information. This is partly a result of intimidation by USFWS Agents who threaten to prosecute any other government agents who disagree with them.

I would be glad to provide citations from the ESA, Forest Act, FLPMA, NEPA, etc that ~~seem to~~ are ignored in favor of ESA biological opinions.

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We have been in contact with our Nevada Congressional delegation and with the House Resources Committee chaired by Mr. Rambo. Senator Easton wrote to both the ~~Sec of~~ ^{Secretary} Interior and the Sec of Agriculture to ask them to solve some of these same problems. A staff member at Senator Easton's Washington office is actively pursuing answers to their questions. Congressman Gibbons staff has contacted USFWS here in Nevada.

The House Resources Committee staff members are also helping directly with the Fulstone's problems. In addition, this committee held a series of field hearings. I participated in the hearing in Klamath Falls Oregon by submitting written testimony. I also participated in a meeting held after the hearing. Oregon and California residents raised the same concerns about bad science and economic damage. One gentleman expressed to the Congressional staffers that he should not have to sue an agency just to get them

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to obey various sections of the ESA and he should not have to sue the government to be compensated for regulatory takings.

When this committee travels to Wash. D.C. Please explain how badly we need reform of the ESA and better supervision of federal agents who enforce regulations. In addition to our Nevada delegation please meet with Mr. Pombo. If you meet with Department of Interior officials, please meet with Mr. Gale Manson (Assistant Secretary).

Your Agenda item N-BTC discussion of the 2004 fire season included a question of the witness about whether grazing would have reduced the risk of the fires. One of Fred Fulsome's experiences related to that issue. About ten years ago Fulsome and other ranchers agreed to use their livestock to help reduce the accumulated fire fuels.

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The ranchers, at one point, asked the Forest Service to provide livestock water. The FS employees response was to cross at Fred, cross at the sheep, and refuse to provide water on the basis that he had spent twenty years working hard to eliminate domestic sheep from the forest and was not about to help them now. So, no grass or shrubs have been grazed and the fire near Carson City had an abundance of fuel.